CONSTITUTIONAL LAW—ABSOLUTE LIABILITY OF AUTOMOBILE OWNERS—DUE PROCESS.—*Subdivision* 3, *Section* 10, *Act* 318, of the PUBLIC ACTS of 1909 of Michigan provided as follows: "Liability of Owners.—The owner of a motor vehicle shall be liable for any injury occasioned by the negligent operation by any person of such motor vehicle, whether such negligence consists in violations of the provisions of a statute of the state or in the failure to observe such ordinary care in such operation as the rules of the common law require; but such owner shall not be so liable in case such motor vehicle shall have been stolen." The defendant owner had sent his automobile to a garage for repairs, in the course of which the employes of the concern in taking the machine out for a run in order to test it collided with the plaintiff, who thereupon sought to hold the owner liable for his injuries under the statute above quoted. The validity of this statute was questioned on the ground that it violated the fourteenth amendment to the federal constitution. *Held* that this statute was unconstitutional. *Dougherty* v. *Thomas,* (Mich. 1913), 140 N. W. 615.

There is no case which has gone so far as to sustain the rule adopted by the statute in the principal case. In *Camp* v. *Rogers,* 44 Conn. 291, a statute imposing a similar liability was under review, but the court adopted a construction which avoided the necessity of determining the constitutional question. This principal case follows the doctrine laid down in *Ives* v. *South Buffalo Ry.,* 201 N. Y. 271, 94 N. E. 431, 34 L. R. A. (N. S.) 162, Ann. Cas. 1912, B, 136, that it is unconstitutional per se to impose liability upon one who is without fault or negligence for injuries sustained by another. The better view is that imposition of absolute liability is not unconstitutional per se, but only unconstitutional where the regulation is unreasonable in view of the ends to be attained. *St. Louis R. R.* v. *Mathews,* 165 U. S. 1; *Chic. etc. R. R. v. Ternecke,* 183 U. S. 582.

CONTRACTS—MUTUALITY.—The defendant gave plaintiff the privilege of selling its motor cars in Waterbury, Conn., in consideration of which the plaintiff agreed to purchase twenty cars, making a deposit of $700 i. e. $35 for each car. The agreement was in writing and further stipulated that defendant should be under no liability for failure to deliver any cars ordered, and might either deliver, or return the deposit at its option. Plaintiff received from the defendant six of the cars. The plaintiff refused a new contract and sued the defendant for the balance of the deposit, $490. The defendant claimed that plaintiff had broken the contract of purchase by not taking all the 20 cars and could not recover. *Held*.. The contract did not bind the defendant to deliver any cars and was void for lack of mutuality. The plaintiff received no consideration, and was therefore guilty of no breach of contract and could recover. Two judges dissented on the ground that having made plaintiff their agent an implied contract to sell to the plaintiff arose which was binding on the defendant. Further that the plaintiff had acted as agent and made certain commissions, while defendant had received the benefit of his services and the contract was validated by performance on

both sides. *Goodyear* v. *H. J. Koehler Sporting Goods Co.* (N. Y. 1913) 143 N. Y. S. 1046.

Mutuality exists when each party to a contract is subject to an obligation which is enforceable. The defendant in the above case, by exempting itself from liability in express words, overreached itself, and freed the plaintiff from any obligation which defendant could enforce, for if the dissenting judge's construction be adopted, the court makes a new contract for the parties contrary to their express words. It would seem, however, that both parties having acted under the contract and, in a measure, having received that for which they bargained, the contract was completed, and was broken by plaintiff when he refused to take the remaining cars which he agreed to buy. A contract may be unilateral at its inception and become valid by the performance of it by the party originally not bound by it. *Storm* v. *United States,* 94 U. S. 76, 24 L. Ed. 42; *Fontain* v. *Baxley,* 17 S. E. 1015, 90 Ga. 416. A contract almost identical with that in the principal case was considered in the *Velie Motor Car Co.* v. *Kopmeier Motor Car Co.,* 194 Fed. 324; in which the plaintiff was the employer and the defendant was the agent who failed to act under the contract. The court held the contract unilateral and void. The principal case is distinguished from the last cited case, by the fact that both parties acted under the agreement in it. *Buick Motor Co.* v. *Thompson,* 138 Ga. 282, 75 S. E. 354; was the case of an offer by the Motor Company, the defendant, to sell to plaintiff, and make him its agent in that county. The plaintiff, though not bound to do anything by the words of the contract, accepted it, and sold some cars which defendant failed to deliver. The Court, by LUMPKIN J., held that though unilateral at its inception, the contract became binding when plaintiff acted under it, but only so far as he had acted. In so far as it was executory, it was probably still unilateral. If it were not that the dissenting opinion in the principal case would, if adopted, result in making a new contract for the parties, it seems that it would be the more equitable of the two opinions under the rule adopted where the party who is not bound, performs under a unilateral contract.

COVENANTS—PERSONS ENTITLED TO ENFORCE—COVENANTS AS TO USE OF LAND.—Complaints conveyed a lot to R, the grantee covenanting for himself and assigns not to erect any building within 30 ft. of the side line of the lot. R. conveyed the lot to his wife, who took with notice of the covenant. This bill was brought to enjoin the wife from violating the covenant. It was not shown that at the time of the first grant or at any later time complainants owned any land in the vicinity other than that conveyed. *Held,* that the defendant was bound by the covenant and should be enjoined from violating it. *Van Sant et al.* v. *Rose et al.* (Ill. 1913) 103 N. E. 194.

The precise question involved in this case has seldom been before the courts, either in this country or in England. It is well settled that, as a general rule, restrictive covenants, if not against public policy, will be enforced against subsequent grantees, if they take with notice, or as volunteers, even though the covenant is not such as would run with the land at law. WASH-